

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

UNITED STEEL, PAPER AND FORESTRY, §
RUBBER MANUFACTURING, ENERGY,
ALLIED INDUSTRIAL AND SERVICE §
WORKERS INTERNATIONAL UNION

v. § CIVIL ACTION NO. 6:11CV186
DELEK REFINING, LTD. §

ORDER ADOPTING REPORT AND
RECOMMENDATION OF UNITED STATES
MAGISTRATE JUDGE

The Report and Recommendation of the Magistrate Judge, which contains her findings, conclusions, and recommendation for the disposition of USW's Motion for Summary Judgment (document [#13](#)) and Delek's Motion for Summary Judgment (document [#14](#)) has been presented for consideration. The Report and Recommendation recommends that USW's Motion for Summary Judgment be denied and that Delek's Motion for Summary Judgment be granted. The Report and Recommendation further recommends that the arbitration award be vacated. USW filed written objections to the Report and Recommendation on September 20, 2012.

Having made a *de novo* review of the written objections filed by USW, the Court finds that the findings and conclusions of the Magistrate Judge are correct and the objections are without merit. The arbitrator exceeded his authority as set by an arguable construction and application of the CBA. The arbitrator made an implicit finding of just cause for discharge and improperly fashioned an alternate remedy. The Court, therefore, adopts the findings and conclusions of the Magistrate Judge as those of the Court.

In light of the foregoing, it is

ORDERED that USW's Motion for Summary Judgment (document [#13](#)) is **DENIED** and Delek's Motion for Summary Judgment (document [#14](#)) is **GRANTED**. The arbitration award is hereby **VACATED** and USW's complaint is **DISMISSED** with prejudice.

Any motion not previously ruled on is **DENIED**.

So ORDERED and SIGNED this 27th day of September, 2012.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

LEONARD DAVIS
UNITED STATES DISTRICT JUDGE